

taxable income of the partnership for its taxable year ending June 30, 1955. The distributive share of taxable income of the partnership for its taxable year ending June 30, 1956, arising from the interest of the decedent, will be includible in the return of the estate for its taxable year ending October 31, 1956. That part of the distributive share attributable to the decedent for the period ending with the date of his death (July 1 through October 31, 1955) is income in respect of a decedent under section 691.

Example 2. Assume the same facts as in example 1 of this subdivision, except that, prior to B's death, B and D had agreed that, upon B's death, D would purchase B's interest for \$10,000. When B dies on October 31, 1955, the partnership taxable year beginning July 1, 1955, closes with respect to him. Therefore, the return for B's last taxable year (January 1 to October 31, 1955) will include his distributive share of taxable income of the partnership for its taxable year ending June 30, 1955, plus his distributive share of partnership taxable income for the period July 1 to October 31, 1955. See subdivision (iv) of this subparagraph.

Example 3. H is a member of a partnership having a taxable year ending December 31. Both H and his wife W are on a calendar year and file joint returns. H dies on March 31, 1955. Administration of the estate is completed and the estate, including the partnership interest, is distributed to W as legatee on November 30, 1955. Such distribution by the estate is not a sale or exchange of H's partnership interest. No part of the taxable income of the partnership for the taxable year ending December 31, 1955, which is allocable to H, will be included in H's taxable income for his last taxable year (January 1 through March 31, 1955) or in the taxable income of H's estate for the taxable year April 1 through November 30, 1955. The distributive share of partnership taxable income for the full calendar year that is allocable to H will be includible in the taxable income of W for her taxable year ending December 31, 1955, and she may file a joint return under sections 2 and 6013(a)(3). That part of the distributive share attributable to the decedent for the period ending with the date of his death (January 1 through March 31, 1955) is income in respect of a decedent under section 691.

Example 4. M is a member of partnership JKM which operates on a calendar year. M and his wife S file joint returns for calendar years. In accordance with the partnership agreement, M designated S to succeed to his interest in the partnership upon his death. M, who had withdrawn \$10,000 from the partnership before his death, dies on October 20, 1955. S's distributive share of income for the

taxable year 1955 is \$15,000 (\$10,000 of which represents the amount withdrawn by M). S shall include \$15,000 in her income, even though M received \$10,000 of this amount before his death. S may file a joint return with M for the year 1955 under sections 2 and 6013(a). That part of the \$15,000 distributive share attributable to the decedent for the period ending with the date of his death (January 1 through October 20, 1955) is income in respect of a decedent under section 691.

(4) *Disposition of less than entire interest.* If a partner sells or exchanges a part of his interest in a partnership, or if the interest of a partner is reduced, the partnership taxable year shall continue to its normal end. In such case, the partner's distributive share of items which he is required to include in his taxable income under the provisions of section 702(a) shall be determined by taking into account his varying interests in the partnership during the partnership taxable year in which such sale, exchange, or reduction of interest occurred.

(5) *Transfer of interest by gift.* The transfer of a partnership interest by gift does not close the partnership taxable year with respect to the donor. However, the income up to the date of gift attributable to the donor's interest shall be allocated to him under section 704(e)(2).

(d) *Effective date.* The rules of this section are applicable for taxable years ending on or after May 17, 2002, except for paragraph (c), which applies for taxable years beginning after December 31, 1953.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7286, 38 FR 26912, Sept. 27, 1973; T.D. 8123, 52 FR 3623, Feb. 5, 1987; T.D. 8996, 67 FR 35020, May 17, 2002; T.D. 9009, 67 FR 48019, July 23, 2002]

§ 1.706-2T Temporary regulations; question and answer under the Tax Reform Act of 1984.

Question 1: For purposes of section 706(d), how is an otherwise deductible amount that is deferred under section 267(a)(2) treated?

Answer 1: In the year the deduction is allowed, the deduction will constitute

Internal Revenue Service, Treasury

§ 1.707-0

an allocable cash basis item under section 706(d)(2)(B)(iv).

(Secs. 267(f)(2)(B), 706(d)(2)(B)(iv), 1502, and 7805, Internal Revenue Code of 1954 (98 Stat. 704, 26 U.S.C. 267; 98 Stat. 589, 26 U.S.C. 706; 68A Stat. 367, 26 U.S.C. 1502; 68A Stat. 917, 26 U.S.C. 7805))

[T.D. 7991, 49 FR 47001, Nov. 30, 1984]

§ 1.707-0 Table of contents.

This section lists the captions that appear in §§1.707-1 through 1.707-9.

Section 1.707-1 Transactions Between Partner and Partnership

- (a) Partner not acting in capacity as partner.
- (b) Certain sales or exchanges of property with respect to controlled partnerships.
 - (1) Losses disallowed.
 - (2) Gains treated as ordinary income.
 - (3) Ownership of a capital or profits interest.
- (c) Guaranteed payments.

Section 1.707-2 Disguised Payments for Services. [Reserved]

Section 1.707-3 Disguised Sales of Property to Partnership; General Rule.

- (a) Treatment of transfers as a sale.
 - (1) In general.
 - (2) Definition and timing of sale.
 - (3) Application of disguised sale rules.
 - (4) Deemed terminations under section 708.
- (b) Transfers treated as a sale.
 - (1) In general.
 - (2) Facts and circumstances.
- (c) Transfers made within two years presumed to be a sale.
 - (1) In general.
 - (2) Disclosure of transfers made within two years.
- (d) Transfers made more than two years apart presumed not to be a sale.
- (e) Scope.
- (f) Examples.

Section 1.707-4 Disguised Sales of Property to Partnership; Special Rules Applicable to Guaranteed Payments, Preferred Returns, Operating Cash Flow Distributions, and Reimbursements of Preformation Expenditures

- (a) Guaranteed payments and preferred returns.
 - (1) Guaranteed payment not treated as part of a sale.
 - (i) In general.
 - (ii) Reasonable guaranteed payments.
 - (iii) Unreasonable guaranteed payments.
 - (2) Presumption regarding reasonable preferred returns.
 - (3) Definition of reasonable preferred returns and guaranteed payments.
 - (i) In general.
 - (ii) Reasonable amount.

- (4) Examples.
 - (b) Presumption regarding operating cash flow distributions.
 - (1) In general.
 - (2) Operating cash flow distributions.
 - (i) In general.
 - (ii) Operating cash flow safe harbor.
 - (iii) Tiered partnerships.
 - (c) Accumulation of guaranteed payments, preferred returns, and operating cash flow distributions.
 - (d) Exception for reimbursements of preformation expenditures.
 - (e) Other exceptions.

Section 1.707-5 Disguised Sales of Property to Partnership; Special Rules Relating to Liabilities

- (a) Liability assumed or taken subject to by partnership.
 - (1) In general.
 - (2) Partner's share of liability.
 - (i) Recourse liability.
 - (ii) Nonrecourse liability.
 - (3) Reduction of partner's share of liability.
 - (4) Special rule applicable to transfers of encumbered property to a partnership by more than one partner pursuant to a plan.
 - (5) Special rule applicable to qualified liabilities.
 - (6) Qualified liability of a partner defined.
 - (7) Liability incurred within two years of transfer presumed to be in anticipation of the transfer.
 - (i) In general.
 - (ii) Disclosure of transfers of property subject to liabilities incurred within two years of the transfer.
 - (b) Treatment of debt-financed transfers of consideration by partnerships.
 - (1) In general.
 - (2) Partner's allocable share of liability.
 - (i) In general.
 - (ii) Debt-financed transfers made pursuant to a plan.
 - (A) In general.
 - (B) Special rule.
 - (iii) Reduction of partner's share of liability.
 - (c) Refinancings.
 - (d) Share of liability where assumption accompanied by transfer of money.
 - (e) Tiered partnerships and other related persons.
 - (f) Examples.

Section 1.707-6 Disguised Sales of Property by Partnership to Partner; General Rules

- (a) In general.
- (b) Special rules relating to liabilities.
 - (1) In general.
 - (2) Qualified liabilities.
 - (c) Disclosure rules.
 - (d) Examples.